

HJR 196

The Use of Federal, State, and Local Funds for Private Educational Placements of Students with Disabilities

STUDY PLAN

YEAR TWO

Study Mandate

- During the 2014 General Assembly Session, Delegate Les R. Adams introduced House Joint Resolution 196, directing the Commission on Youth to:
 - Examine the use of Comprehensive Services Act for At-Risk Youth and Families (CSA) and Medicaid funds for private day and private residential special education placements;
 - Gather local and statewide data on the extent to which youth are placed in settings that are segregated from nondisabled students;
 - Determine the feasibility and cost-effectiveness of more integrated alternatives to provide special education services to students including, but not limited to, those students with intellectual and developmental disabilities currently in segregated settings in the Commonwealth; and
 - Consider any other matters as it deems appropriate to meet the objectives of this study.
- The Commission on Youth will complete its meetings for the first year by November 30, 2014, and the second year by November 30, 2015. The Chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year.

Identified Issues

- The Individuals with Disabilities Education Act (IDEA) guarantees a free appropriate public education (FAPE) to all eligible children with disabilities, including identification and referral, evaluation, determination of eligibility, development of an individualized education program (IEP), determination of services, and reevaluation.
- IDEA ensures that specially designed instruction is provided to meet the unique needs of a child with a disability, at no cost to the parents.
- School divisions, along with parents, may determine that a student's need for special education services can only be met in other settings outside of the public school, such as in a private school. These programs may be day programs or residential programs. This determination is made during the IEP process. Students placed in private schools by the school division have the same rights, including the right to FAPE as their counterparts attending public schools.
- IDEA requires that special education services be provided in the least restrictive environment (LRE) and that students with an IEP not be unnecessarily segregated from nondisabled students, including those receiving educational services in private day and private residential schools or facilities.
- State general funds support special education services in public school settings.
- CSA provides a single state pool of funds to purchase services, including private day school and residential placements for the provision of special education for at-risk youth and their families. Local interagency teams are responsible for managing CSA funds.
- Medicaid funds may also be utilized to support private residential placements, but only for those youth with mental health treatment needs that qualify for residential services.

- In FY 2014 CSA's average annual expenditure per child for special education services exceeded \$40,000. The annual cost per child per day by placement type in Fiscal Year 2014 were:
 - \$140 for private day school;
 - \$150 for residential (Medicaid); and
 - \$231 for residential (Non-Medicaid).
- In FY 2014 the breakdown of the youth receiving CSA funding for special education services were:
 - 92% were serviced in alternative day school placements;
 - 4% were served in non-Medicaid residential programs; and
 - 8% were served in Medicaid residential programs.
- A comprehensive review of the use of state funds for the aforementioned purposes may help to ensure that the Commonwealth's funds are being used efficiently and ensure the provision of special education services to students in the most integrated settings possible.

Study Activities – Year One

- Conduct extensive background and literature reviews on other states' initiatives and policies
- Review federal statutes and regulation
 - Individuals with Disabilities in Education Act of 2004 (IDEA)
 - IDEA federal regulations
- Review Virginia laws and regulations
 - The Comprehensive Services Act for At-Risk Youth and Families
 - Virginia's Special Education Regulations
 - Utilization of Medicaid for Special Education Services
- Review Comprehensive Services Act Policies
 - Local match rate allocations
 - CSA Reimbursement for wraparound educational services
- Meet with state and local officials, as well as key stakeholders
- Meet with Private Day School representatives
- Collect data to review the use of special education placements funded by CSA
 - Number of children who are placed
 - Services recommended
 - Service gaps
- Present initial findings for Year One to the Commission on Youth

Study Activities – Year Two

- Convene Advisory Group to assist in study effort
 - Invite representatives from the impacted groups including:

Office of Comprehensive Services Act for At-Risk Youth and Families	State Executive Council
Virginia Department of Education	State and Local Advisory Team
Virginia Department of Behavioral Health and Developmental Services	Local Comprehensive Services Act Coordinators
Virginia Board for People with Disabilities	Community Policy and Management Teams
Virginia Department of Social Services	Family Assessment and Planning Teams
Local Education Agencies	Partnership for People with Disabilities
School Administrators	Clinicians and School Psychologists
Virginia Association of Independent Specialized Education Facilities	Advocacy Organizations
Private School Representatives	Special Education Administrators
DisABILITY Law Center	Special Education/General Education Educators
Virginia's Parent Resource Centers	Family Members/Youth

- Review other introduced CSA legislation
 - HB 221 (Bell, 2014) – Students; admission to certain children’s residential facilities. Requires each student admitted under a physician’s order, due to medical necessity and not solely for school purposes, to a children’s residential facility to immediately be enrolled in an education program that is comparable to that which is provided in the child’s school division of residence. Left in Appropriations.
 - HB 229 (Cole, 2014) – Comprehensive Services for At-Risk Youth and Families; Special Education Programs. Expands eligibility for services to students who transfer from an approved private school special education program to a public school special education program. Left in Appropriations.
 - SB 153 (Stuart, 2014) – Comprehensive Services for At-Risk Youth and Families; Special Education Programs. Companion to HB 229. Left in Appropriations.
 - SB 369 (Favola, 2014) – Membership of the SEC. Would add a third private provider representative, a representative of a child advocacy group or organization, a representative of a mental health advocacy group with a specialization in children’s mental health, and a representative of a public provider of children’s mental health services. Left in Health, Welfare and Institutions.
 - HB 2238 (LaRock, 2015) – Parental Choice Education Savings Account. Would permit the parents of eligible students to apply to the Department of Education for a Parental Choice Education Savings Account, to consist of the student’s state per pupil funds and certain special education funds, which would be transferred annually to the Savings Account to provide educational options for the eligible children. Eligible students would be Virginia students with disabilities who attended public school for at least half the prior year. Defeated by the Senate.
- Review Virginia’s regional special education programs that provide special educational services and programs at dedicated locations throughout the Commonwealth
- Compile a description of services provided in private day/residential facilities
- Determine the feasibility and cost-effectiveness of more integrated alternatives
- Develop recommendations
 - Synthesize findings
 - Develop recommendations
- Solicit feedback to recommendations
- Refine findings and recommendations
- Present findings and recommendations to the Commission on Youth
- Prepare final report